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C O N F I D E N T I A L SECTION 01 OF 03 HONG KONG 002071

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STATE FOR EAP/CM, STATE PASS USTR CHINA OFFICE

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TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [EIND](#) [ELAB](#) [PGOV](#) [CH](#)
SUBJECT: HONG KONG LABOR RIGHTS GROUP PUSHING COLLECTIVE
BARGAINING FORWARD IN GUANGDONG

REF: A. GUANGZHOU 618
[1](#)B. HONG KONG 1989

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Classified By: Consul General Joseph Donovan for reasons 1.4 (b) and (d)
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[1](#)1. (C) Summary: A leading local advocate for labor rights in mainland China has begun to use the mainland's Labor Contract Law (LCL) of 2008 to organize workers in Guangdong province. His organization plans to target a successful foreign manufacturer that can become a model for future collective bargaining efforts. Recent worker protests in Guangdong over factory closures were targeted solely against the Hong Kong-based manufacturers who closed the operations (ref A), and Chinese workers have thus far largely supported the government's responses to the factory closures. The Deputy Chairman of Hong Kong's Federation of Industries (HKFI) reiterated his organization's public prediction of 2.5 million near-term layoffs of mainland workers in Guangdong by Hong Kong-based employers (ref B). He cited manufacturer losses due to rising labor costs (related to the LCL and to increased usage of labor dispute arbitration mechanisms), lack of credit availability, and economic recessions in export markets. A respected regional macroeconomic expert offered a more positive assessment, suggesting factory openings in the Pearl River Delta (PRD) continue to outpace factory closures. The current economic downturn may accelerate the shift of PRD production facilities toward more sophisticated products with higher value-added content. End summary.

[1](#)2. (C) Comment: The LCL and a new labor dispute arbitration law in mainland China provide a clearer legal foundation for Hong Kong's labor rights organizations such as the China Labour Bulletin (CLB), as they seek to organize and defend workers in the PRD. However, given the All-China Federation of Trade Union's (ACFTU) state-sanctioned role as the dominant umbrella organization for organized labor in the mainland, the CLB itself believes it will be impossible to engineer the emergence of truly independent labor unions. The CLB and similar groups in Hong Kong will therefore likely continue to focus on labor organizing activities in Hong Kong-owned factories operating on the periphery of the ACFTU's influence. Despite vociferous complaints by Hong Kong manufacturers that the LCL is boosting their labor costs, Hong Kong Trade Development Council statistics indicate that wage increases related to labor shortages and increased demand for skilled labor continue to account for the majority of rising labor costs in Guangdong. While sudden factory closures and layoffs by Hong Kong-based firms in the PRD generate worker protests and substantial negative publicity, they facilitate the acceleration of the state-supported trend toward higher value added manufacturing in the PRD.

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Background of Han Dongfang and CLB
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[1](#)3. (U) Han Dongfang, Founder and Director of the CLB in Hong Kong (website: www.clb.org.hk), first came to international prominence as a railway worker in 1989 in Beijing, when he helped establish China's first independent trade union during the Tiananmen Square protests. He set up the CLB in 1994 to further promote labor rights in mainland China, a year after being expelled by Beijing to Hong Kong. In addition to his CLB activities, Han interviews Chinese workers and discusses

labor issues in China thrice weekly on Radio Free Asia. The CLB seeks China's official recognition of workers' freedom of association and the right to free collective bargaining, as well as the development of democratic trade unions, respect for and enforcement of mainland China's labor laws, and the full participation of workers in the creation of civil society.

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Initial Strategy to Organize Workers Using LCL
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14. (C) In an October 24 discussion with us, Han described his organization's efforts to use China's new LCL to help organize Chinese workers, beginning in Guangdong province. Han said, "There are several foreign and Hong Kong-owned factories with no active unions, regardless of official

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estimates and the presence of the ACFTU." (Note: The ACFTU is China's state-controlled national trade union federation, with approximately 193 million members. The ACFTU has a monopoly of control over trade unions in China - a status unaffected by the new LCL. End note.) Han referred to the ACFTU as "a huge organization that has done nothing for workers and that no one can change." His current plans call for organizing efforts at factories not actively covered by ACFTU branches. The CLB intends to educate mainland workers about their rights under China's new labor laws, map out strategies for workers to quickly and efficiently pursue their collective interests under the ACFTU umbrella, and support workers engaged in precedent-setting arbitration disputes.

15. (C) Han hopes to use provisions of the LCL (specifically, Article 6 which calls for establishment of collective bargaining mechanisms) to target "a large, successful, foreign manufacturer in Guangdong" for collective bargaining under the ACFTU umbrella. His strategy involves use of media in the foreign manufacturer's home country, in an effort to push the manufacturer toward labor contract concessions in China. Once a relatively attractive collective labor contract is signed with the foreign manufacturer, Han intends to use the contract as a template to energize workers to engage in collective bargaining discussions with other foreign manufacturers in the PRD and beyond. He said, "It will take 10-20 years to cover 15 percent of China's enterprises with more active local unions. The presence of the ACFTU slows everything down." In tandem with the organizing activities promoted by the CLB, Han hopes to educate workers about their beefed-up rights under the LCL. He cited the city of Shenzhen as a labor rights leader and a "guidepost" to the CLB for its passage and active enforcement of new labor protection regulations.

16. (C) Han predicted that the building wave of manufacturing job losses and layoffs in China will not result in anti-government protests. He said, "Today's workers in China will definitely not organize politically. They won't turn against the government, and there will be no Solidarity Movement in China." Han said workers turn to local, provincial and national governments for assistance; any protests by workers will be targeted at specific factory owners.

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HK Industry Federation Says Labor Arbitration Hurts
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17. (C) The Deputy Chairman of the HKFI, Stanley Lau, told us on October 28 of growing labor challenges for HKFI member companies operating manufacturing facilities in the PRD. He said, "Local workers are becoming more sophisticated and using their legal rights and lawyers more than ever before." He said mainland China's new Labor Dispute Mediation and Arbitration Law (LDMAL) has enabled "many more" workers to use arbitrators for low cost, quick decisions on their claims. According to Lau, the LDMAL has caused a "sharp increase" in the number of lawyers representing workers in arbitration disputes. He said, "The arbitrators and the courts (in the mainland) are predisposed toward the workers. They rarely decide in favor of the employer."

18. (C) Lau said some HKFI members could not pay the amounts awarded by arbitrators, and they therefore shut down their operations in Guangdong. Lau supported earlier statements by HKFI Chairman Clement Chen Cheng-jen that predicted 2.5 million near-term job losses in the PRD from factory closures by Hong Kong-based companies. He described the job loss prediction as "realistic," given the effects of the LCL, the LDMAL, the credit crunch, and the recessions overtaking China's export markets.

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Factory Closures Part of "Natural" Shift?

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19. (C) Michael Enright, an American consultant and Hong Kong University professor who has written extensively about Hong Kong and the PRD, told us on October 28 that factory closures and job losses in the PRD "have not hit the PRD's most important export industries - telecommunications and electrical products." He said, "The media reports factory

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closures, but they don't report that more factories are opening in the PRD than are closing, and the number of jobs on offer still far exceeds the number of people available to fill them." Enright said factory closures in the PRD are concentrated in labor intensive, lower value sectors such as apparel, toys and footwear. He said those operations "will be naturally crowded out by higher-end manufacturing facilities" that produce consumer electronics, telecommunications equipment, automobile components and electromechanical equipment. Enright said such capitalintensive products already account for the majority of industrial output in the PRD, and that Hong Kong-based manufacturers in those industries are well positioned to benefit from the increasingly productive and well-trained Guangdong work force.

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